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How to Stop the Sale of Secrets

Give Spies The Death Penalty

By Ernest W. Lefever

WASHINGTON — On July 11 the House of Representatives, in its first roll-call on the death penalty since 1977, voted 320 to 101 to permit the execution of persons convicted by military courts of espionage in peacetime. This lopsided result was a clear response to the sharp rise of espionage cases in recent years, and especially to the alleged Walker spy ring in the Navy charged with selling military secrets to the Soviet Union for nearly two decades.

The more recent charge that a secretary in the Central Intelligence Agency was involved in espionage for the Marxist regime in Accra, Ghana since December 1983 added fuel to the drive for stricter peacetime espionage penalties.

I cannot assess either guilt or damage in these and other cases, but I commend the House's decision and suggest that it be broadened to include civilians in peacetime convicted of treason.

American democratic morality has traditionally drawn a sharp distinction between times of war and times of peace, and between civilian and military personnel. These morals made sense in an earlier and simpler time. But the protracted conflict between the free world and the Soviet Union blurs the distinctions between

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peace and war. Moscow has made it clear that it is at war with us, an unremitting cold war of propaganda, disinformation and active measures that sometimes breaks out into "warm" wars of subversion or an actual hot war against our allies, such as South Korea and South Vietnam.

The issue of tyranny versus freedom has thus been joined. As leader of the free world, the United States has both the right and duty to invoke a wartime ethic — nuanced to distinguish between a single act of misusing classified information and a persistent pattern of treachery — to defend itself and its allies.

In this lethal struggle, military personnel and civilians are inextricably involved. Any United States citizen in the armed forces, the C.I.A. or the defense industry who deliberately gives secrets to the enemy — whether motivated by greed, ideology or hatred of country — should be tried by the appropriate court and, if found guilty of treason, executed.

Why the death penalty and not a life sentence? This question may be raised about anyone who commits a heinous crime. In 1976 the Supreme Court legalized the death penalty for certain categories of first degree murder. Even people who have moral qualms about this decision might see in high treason (not mentioned by the Court) sufficient justification for making the traitor pay the ultimate price.

Opinion polls show that in aggravated cases of murder, most Americans support capital punishment. What, then, should be the penalty for a traitor who jeopardizes the lives of thousands or even millions? In our dangerous world, passing security secrets to the Soviet Union could result in the death of millions. No punishment — even death — is adequate for such a crime.

It is often asserted that only God should determine when a man should die and that the state has no right to take a man's life. In fact, the state does have a right to ask a man to give up his life in defense of home and country. As we are indebted to the

hundreds of thousands of Americans who have made this supreme sacrifice, so we are morally compelled to end the lives of traitors who imperil our freedom and security.

The chief purpose of capital punishment is not to punish the traitor or the murderer, but to protect the innocent from repeated crimes, to deter would-be criminals and, perhaps most important, to reaffirm the norms of a decent and humane society. Ernest van den Haag, a law professor at Fordham University, put it well: "A failure to terminate a murderer's life isn't a celebration of human life but exactly the opposite. Those who believe in the sacred right of an individual to live his life span uninterrupted by murder cannot affirm their devotion to that principle by dealing frivolously with those who violate it."

For these and other reasons, Congress should permit the death penalty for convicted traitors whether they be military or civilian, and whether their activities occur in times of peace or war. □